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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003498

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SUBJECT: DRAFT IRAQ ELECTION COMMISSION LAW UPDATE

REF: BAGHDAD 03392

Classified By: Classified by Political Counselor Margaret Scobey for reasons 1.4 (b) and (d).

11. (C) SUMMARY: Independent Election Commission of Iraq (IECI) commissioners and International Election Assistance Team officials (IEAT) are concerned about the draft law to form a permanent election commission, worsening IECI morale, and a loss of IECI capacity due to staff departures. Election commissioners and international election officials worry about provisions in the draft law they say will subject the new commission to political pressure, but the draft law text has improved somewhat in this area. IECI and the Council of Representatives (CoR) Legal Committee expect the final reading and vote on the law before the end of September. END SUMMARY.

PASSAGE OF LAW EXPECTED BEFORE END OF SEPTEMBER

12. (C) As envisioned by CPA Order 92, the IECI's mandate should have expired in May, 90 days after certification of the final election results. Rather than let the IECI expire, the CoR has extended the IECI in a caretaker status through a series of resolutions until a permanent election commission could be established. The law to replace the IECI with a permanent commission was introduced on the CoR floor on July 16 and the second reading occurred on July 25, just prior to the CoR August recess. IECI and the CoR legal Committee expect the third reading and final passage of the election commission law to take place before the end of September.

ELECTION COMMISSIONERS EXPRESS CONCERN...

13. (C) On September 5, IECI Commissioner Izdin Al-Mohammdy told PolOff that provisions in the draft law to establish a permanent election commission will threaten the independence of the new election commission, potentially leaving it in the hands of the CoR's large political blocs. Al-Mohammdy identified as a major problem provisions in the draft giving the CoR the power to dismiss individual commissioners by simple majority vote. Al-Mohammdy also expressed concern over a provision decreasing the rank of election commissioners from Minister to Deputy Minister, claiming this would make it more difficult for future commissioners to stand up to political pressure. Election Commissioner Mustafa Safwat echoed these same concerns during a September 11 meeting, stating that he hoped the removal provision can be raised to a two-thirds majority requirement.

14. (C) Both Al-Mohammdy and Safwat expressed concern over what they said was a morale crisis within the Electoral Administration of the IECI and loss of capacity due to staff departures. This drop in morale was due in large part to the

detention of Chief Electoral Officer Adil Al-Lami and three of his staff by the Commission for Public Integrity (CPI) (NOTE: All four were held for eight weeks and then released without charges being filed on September 9. END NOTE). Both commissioners also attributed the low morale to political infighting between the election commissioners and uncertainty of the commission's future. Al-Mohammdy told PolOff that over 200 of the 1400 members of the electoral administration staff (about 15 per cent) have left the IECI in recent weeks.

...SECONDED BY INTERNATIONAL ELECTION OFFICIALS

15. (C) Concern over provisions in the draft election commission law and a loss of capacity within the IECI have also been raised in discussion with IEAT members. Richard John, Chief of Party for the International Foundation for Electoral Support (IFES) assisting the IECI, echoed Safwat's and Al-Mohammdy's comments, and confirmed the staff loss within the IECI. John told PolOff on September 13 that the impact is significant and will slow preparations for future provincial elections, because those leaving include key supervisors and some of the most skilled staff. If these losses continue it will impact the ability to quickly prepare for anticipated provincial elections. Jose Maria Aranza, UN legal advisor to the IEAT, expressed similar concerns over the draft election commission law, political infighting and loss of IECI capacity.

IMPROVED DRAFT LAW

16. (C) Embassy Officials, in coordination with UK Embassy and UNAMI, have actively engaged with senior Iraqi leadership at

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the highest levels to ensure the best possible law is passed and the new election commission is as free from political influence as possible (REFTEL). This effort significantly improved provisions in the draft law: CoR Legal Committee contacts told PolOffs on September 14 that the final wording of the draft removal provision will not be the higher 2/3 requirement, but will change the requirement from a simple majority of CoR members present to an absolute majority of all CoR members (138 votes).

SPECKHARD